

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION

MDL NO. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:

State of Arizona v. Abbott Labs., Inc., et al.,
Cause No. 1:06-CV-11069-PBS

MOTION FOR DISMISSAL OF SELECT DEFENDANTS WITH PREJUDICE

By and through their counsel, the State of Arizona (“State”), pursuant to Fed. R. Civ. P. 41(a)(2), moves for an Order of the Court dismissing with prejudice from this action the following defendants: Abbott Laboratories, Abbott Laboratories Inc., Amgen Inc., Aventis Pharmaceuticals Inc., Hoechst Marion Roussel, Inc., Baxter Healthcare Corporation, Baxter International Inc., Bayer Corporation, Boehringer Ingelheim Pharmaceuticals, Inc., Ben Venue Laboratories, Inc., including its division Bedford Laboratories, Boehringer Ingelheim Roxane, Inc., Roxane Laboratories, Inc., Fujisawa Healthcare, Inc., Fujisawa USA, Inc., Immunex Corporation, Pharmacia Corporation, Pharmacia & Upjohn LLC (f/k/a Pharmacia & Upjohn, Inc.), Sicor, Inc., Gensia, Inc., Gensia Sicor Pharmaceuticals, Inc., Watson Pharmaceuticals, Inc., Watson Pharma, Inc., Schein Pharmaceutical Inc. (n/k/a Watson Pharma, Inc.), Watson Laboratories, Inc., and ZLB Behring, L.L.C. (collectively referred to as the “Settling Defendants”). In support of this motion, the State states as follows:

1. The Settling Defendants were named as defendants in the above-referenced action.

2. The State has entered into a Settlement Agreement and Release (“Agreement”) with the Settling Defendants. Pursuant to the terms of the Agreement, the State seeks to dismiss with prejudice all claims asserted by it against the Settling Defendants.

3. Pursuant to the Agreement, the Settling Defendants and the State have agreed that each will bear its own legal and other costs incurred in connection with the lawsuit.

4. The dismissal has no effect on the State’s claims or allegations against any party other than the Settling Defendants in this action.

5. The Settling Defendants consent to this motion.

WHEREFORE, the parties jointly request that the Court enter an Order dismissing with prejudice the Settling Defendants as identified above. A proposed Order of dismissal is attached.

Dated: June 25, 2009

By /s/ Steve W. Berman
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CERTIFICATE OF SERVICE

I, Steve W. Berman, hereby certify that a true and correct copy of the above document was served on the attorney of record for each party via the Court's electronic filing system this 25th day of June, 2009.

By /s/ Steve W. Berman
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